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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/763,267 | 04/16/2001 | Klaus Schumann | RO0234US | 5473 |

7590 02/13/2003

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EXAMINER

CHAN, SING P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1734

DATE MAILED: 02/13/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,267

Applicant(s)

SCHUMANN ET AL.

Examiner

Sing P Chan

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 & 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 7-10 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for melting temperature of 138 °C and 177 °C and heat sealing heads temperature of 169 °C and 200 °C for the first head and a second head temperature of 65 °C and 80 °C does not reasonably provide enablement for a melting temperature of 140 °C and 175°C and a first head temperature of 170 °C and 200 °C and second head temperature of 70 °C and 200 °C. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. In the specification, the melting point temperature for HDPE is 138 °C and sealing tool temperature of ¹⁶⁹~~187~~ °C and ⁶⁵~~72~~ °C for first and second sealing heads respectively and for Barex, i.e. polyacrylonitrile, is 177 °C and sealing tool temperature of 200 °C and 80 °C for first and second sealing heads respectively. The specification does not recite the melting point temperature for HDPE as 140 °C and for Barex as 175 °C and setting the sealing tool temperature of 170 °C and 200 °C for the first sealing head and 70 °C and 200 °C for the second sealing head.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, it is unclear what is intended by the phrase "only slightly above the melting point." The phrase "only slightly" is a relative expression not defined by the applicant. For the purpose of examination, "above the melting point" will be assumed.

5. Claims 7 and 9 recite the limitation "first heated sealing surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claims 8 and 10 recite the limitation "second heated sealing surface" in 1. There is insufficient antecedent basis for this limitation in the claim.

7. Regarding claim 10, it is unclear what is intended with the phrase "second heated sealing surface has a temperature of about 200 °C," which is the same temperature as the first heated sealing surface, but the specification required two different temperatures for the first and second heated sealing tool.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4, 6, and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior in view of Doering, Jr. (U.S. 3,813,846).

Regarding claims 1, 4, 6, 11, and 12, the admitted prior discloses a method for producing hot sealed packs for TTS. The method includes the steps of feeding two laps in line with the heated sealing heads, bond the laps together with heated sealing heads with their polymer layers lying against each other with pressure and heat.

(Specification, Page 1, lines 9-34) However, the admitted prior does not disclose the heated sealing heads includes two or more contact area and advancing the pack material from the first contact area to the second contact area for additional heat sealing. However, heated sealing heads with two or more contact area and advancing the pack material into additional contact areas for additional sealing are well known and conventional as shown for example by Doering, Jr. Doering, Jr. discloses a method of sealing a tray material, i.e. packing material, using a heated sealing mechanism with multiple projections, i.e. contact areas, and moving the material through four sequential sealing operation with heat and pressure to form good seal with high throughput. (Col 4, lines 20-43)

It would have been obvious to one skilled in the art at the time the invention was made to provide a heated sealing mechanism with multiple contact areas and moving the material through sequential sealing operation with heat and pressure as disclosed by Doering, Jr. in the method of the admitted prior art to provide a good seal with high throughput.

Regarding claim 8, the admitted prior art discloses the second sealing head has a temperature of 70°C. (Specification, Page 1, line 31-34)

Regarding claim 9 and 10, the admitted prior art discloses the weldable polymer includes polyacrylonitrile and both heated sealing heads have a temperature of 200°C. (Specification, Page 1, lines 13-30)

Response to Arguments

10. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection.

11. In response to applicant's argument of the specification provides a standard for measuring is not clear. The specification recites the polymer Barex has a melting point temperature of 177 °C and a sealing tool temperature of 200 °C as being considerably higher. However, that is the same temperature of applicant's invention and therefore the range of temperature considered to be slightly higher is unclear.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

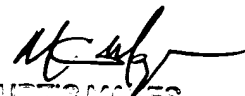
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 703-305-3175. The examiner can normally be reached on Monday-Friday 7:30AM-12:00PM and 1:00PM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Sing P Chan
Examiner
Art Unit 1734

spc
February 6, 2003


CURTIS MYLES
PRIMARY EXAMINER